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09/884,415	06/18/2001	Uwe Sydon	99 P 7358 US 01	3184

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Siemens Corporation  
Intellectual Property Department  
186 Wood Avenue South  
Iselin, NJ 08830

EXAMINER

CORRIELUS, JEAN B

ART UNIT

PAPER NUMBER

2631

DATE MAILED: 09/24/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/884,415	SYDON ET AL.
	Examiner	Art Unit
	Jean B Corrielus	2631

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 August 2003.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 13 and 16-33 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 13 and 16-33 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

1. Certified copies of the priority documents have been received.

2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ .	6) <input type="checkbox"/> Other: _____ .

Art Unit: 2631

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13, 16-27 and 31-33 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 13, lines 11-13, recites "the second power level less than the first power level, when the initial signal quality is higher than a predetermined signal quality and the communication strength is greater than a specified range", however, the specification, as filed, does not provide support for such limitation as claimed. The specification teaches, at best, at page 17, lines 14-26 the second power level at branch (332) less than the first power level, when the line quality for the initial signal in decision element 304 is **inferior** to a predetermined threshold (slow hop threshold) and the communication strength (RSSI) in decision box 330 is greater than a specified range (desired range). The same comment applies equally to claims 26 and 31, respectively.

As per claim 19, recites the first component is requested to transmit "at maximum power when the line quality is lower than the predetermined signal quality threshold and the first power

Art Unit: 2631

level is non maximum", however, the specification as filed does not provide support for such limitations as claimed. The specification teaches at best at page 16, lines 17-21, the first component is requested to transmit at maximum power when the line quality for the initial signal in decision element 304 is **superior** to the predetermined threshold (slow hop threshold) and the first power in non maximum in decision 306. The same comment applies to claims 21 and 32, respectively.

Note that each dependent claim is likewise rejected for being dependent on rejected base claim.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lundby et al in view of Vannatta et al US patent No. 5,999,832.

Lundby et al discloses a method having the steps of: providing communication between a first and second component see fig. 1B and fig. 2A and col. 9, lines 34-36; receiving an initial signal from the first component at the second component see col. 9, lines 48-52; determining a plurality of successive line quality indicators for the initial signal at the second component see

Art Unit: 2631

col. 10, line 1-2; determining a line quality for the initial signal at the second component by summing consecutive line quality indicators over a predetermined period of time see col. 10, lines 4-8; transmitting from the second component to the first component a request for the first component to transmit a subsequent signal at a second power level based on the line quality see col. 10, line 8 and col. 9, lines 62-66. Lundby et al does not explicitly teach that the second power level is based on the quality and power level of the first (initial) signal. However, such limitation does not involve any inventive step. For instance, Vannata et al, US patent No. 5,999,832, teaches fig.10, step 1012 the selection of a second power level based on power level information and signal quality. It would have been obvious to one skill in the art at the time of the invention to select the subsequent power level based on signal level and power level of the first signal so as to increase the efficiency and the life of the battery source and operating time of mobile station as taught by Vannata see col. 5, lines 56-59.

As per claims 29 and 30, the first component is either a base unit or a mobile unit and the second component is either a base unit or a mobile unit see the figures.

#### *Response to Arguments*

5. Applicant's arguments filed 8/25/03 have been fully considered but they are not persuasive. It is stated that page 17, lines 14-26 provides support for the limitations "**when the initial signal quality is higher than a predetermined signal quality**". However, it is noted that such portion of the specification, more precisely, lines 14-18, only teaches, at decision step

Art Unit: 2631

304, if the slow hop counter (**the initial signal quality**) are **not greater than** the slow hop threshold( **predetermined signal quality**), the method follows step 330 where determination is made as to whether **the signal strength is less than a predetermined range**, if not a power reduction request is initiated. See fig. 3. Applicant further stated that page 14, lines 20-24 provide support for the limitation “ **if the slow counters are not greater than the slop hop threshold**”. However, such section of the specification only teaches, at best, when to perform the slow hop procedure shown in fig. 3. The request to transmit at a second power level occurs only, as evidence by fig. 3 boxes 304 and 330, when the slow hop counter is not greater to a slow hop threshold and the communication strength (RSSI) is greater than a desired range.

It is further alleged that Lundby and Vannatta et al taking singularly or in combination do not teach the limitations of “summing line consecutive line quality indicators over a predetermined period of time” because there is no teaching of summing **consecutive** line quality indicators from a **single component** and additionally there is no teaching of making the summation over a predetermined period of time. As a preliminary matter, it is noted that applicant stated in error that Lungby teaches the summation of signal to noise ratio of different data strings from multiple sources. On the contrary, as evidence by fig. 1A or 1B, Lungby teaches signals 120 and 120a, originated from a single source BS1, are inputted to element 130 to determine the summation of the consecutive line quality. In addition, in order to generate the sum of the consecutive line quality, there should be an initial time period set, i.e., an initial time to start and an ending time. Hence, a predetermined time period in Lundby is inherent.

Art Unit: 2631

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the motivation to combine is found in Vannatta, col. 5, lines 56-59.

***Conclusion***

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean B. Corrielus whose telephone number is (703) 305-4023. The examiner can normally be reached on Monday-Thursday from 7:00 A.M. to 5:30 P.M.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-3800.



Jean B. Corrielus

Primary Examiner

TC-2600 9/21/03